

**Lac Vieux Desert Band of Lake Superior Chippewa
Tribal Financial Services Regulatory Authority
Commission Regulations**

**Regulation 1.1
Adopted on July 12, 2013**

Consumer Complaint Procedure

A. **Definitions.** For purposes of this section, unless the context indicates otherwise, the following definitions apply:

- 1) **“Authority”** means the Tribal Financial Services Regulatory Authority (“TFSRA”).
- 2) **“Code”** means the Tribal Consumer Financial Services Regulatory Code.
- 3) **“Consumer complaint”** means an allegation by or on behalf of an individual, that a particular act or practice of a Licensee is unfair or deceptive, or in violation of Tribal Financial Services Regulatory Code or any other applicable law or regulation; unless the context indicates otherwise, **“complaint”** will be construed to mean a **“consumer complaint”** for purposes of this section.
- 4) **“Consumer financial services”** or **“Tribal consumer financial services”** means the business of providing goods, services, or credit to consumer in transactions subject to this Code in exchange for interest, finance charges, fees, rent or other form of consideration on the Band’s reservation or within the Tribe’s jurisdiction, including transactions originated from the Band’s reservation or Tribe’s jurisdiction. The term includes, without limitation, loans, payday loans, credit sales, pawn transactions, sale-leaseback transactions, rent-to-own transactions, guaranties, letters of credit, or other forms of consumer financial services.
- 5) **“Licensee”** means a person or entity licensed pursuant to the Tribal Consumer Financial Services Regulatory Code.
- 6) **“Tribal Council”** means the Lac Vieux Desert Band of Lake Superior Chippewa Indians Tribal Council, the governing body of the Tribe as defined and described in Article IV, Section 1 of the Tribe’s Constitution.
- 7) **“Tribe, Band” or LVD”** means the Lac Vieux Desert Band of Lake Superior Chippewa Indians.

Lac Vieux Desert Band Of Lake Superior Chippewa Tribal Government
P.O. Box 249, Pow Wow Trail • Watersmeet, Michigan 49969



TRIBAL FINANCIAL SERVICES REGULATORY AUTHORITY
CONSUMER COMPLAINT FORM

Please fill in this form completely, including your signature at the end of the form. The Tribal Financial Services Regulatory Authority ("TFSRA") will only act on complaints that are signed by the complainant(s), legal guardian, attorney of complainant(s) along with their client's authorization, or holder of power of attorney. TFSRA's jurisdiction extends to persons or entities licensed pursuant to the Tribal Consumer Financial Services Regulatory Code.

Include copies of documents related to your complaint such as contracts, monthly statements, receipts and correspondence with the institution.

Mail or email this completed complaint form with any attachments to:

Lac Vieux Desert Band of Lake Superior Chippewa
Tribal Financial Services Regulatory Authority
P.O. Box 249
Watersmeet, Michigan 49969
Email: TFSRA@lvdtribal.com

In filling out this form, print or type clearly so the information can be easily read and understood.

Customer Information:

Mr. Ms. Mrs. Miss			
Name:			
	First	Middle	Last
Address:			
	Street	City	State Zip
Daytime Phone:	() -Ext:	Fax:	() -
Email:			

CONSUMER COMPLAINT FORM (Page 2)

Information (Who you are filing a complaint against):

Name of Institution:					
Address:					
Street		City		State	Zip
Type of Account:		Account #:			
Have you tried to resolve your complaint with the Institution?			Yes	No	
If Yes, when?		How? Phone Mail		In Person	Other

If you have an attorney or other representative you want us to deal with directly, please provide your representative's information below. Your signature on this form authorizes your institution and our office to release information to your representative.

Name of Representative:					
Title:					
Address:					
Street		City		State	Zip
Daytime Phone: () -Ext:		Fax: ()			

Please print or type your complaint. Describe events in the order in which they occurred, including any names, phone numbers, and a full description of the problem with the amount(s) and date(s) of any transaction(s). You should also include any response from the institution. Be brief but as complete as necessary to make the explanation clear. Use separate sheet(s) of 8.5" x 11" paper if you need more space.

**Lac Vieux Desert Band of Lake Superior Chippewa
Tribal Financial Services Regulatory Authority
Commission Regulations**

Regulation 1.5

Adopted by TFSRA Resolution 2014-02 on October 30, 2014

Approved by Tribal Council Resolution T2014-090 on October 31, 2014

Required Consumer Disclosures

For Consumer Financial Services Regulatory Code Section 7.2(a)

PURPOSE: This regulation establishes the Tribal Consumer Financial Services Regulatory Authority (“TFSRA” or “Authority”)’s required disclosure and notice to consumers of the Tribe’s and consumer financial services licensee’s preservation of sovereign immunity and exclusive jurisdiction.

- A. **Definitions.** In this Regulation, except where otherwise specifically provided or unless the context otherwise requires, all terms and expressions contained in this Regulation shall have the same meaning as defined in The Lac Vieux Desert Band of Lake Superior Chippewa Indians Tribal Consumer Financial Services Regulatory Code (hereafter referred to as “the Code”).
- B. **Consumer Loan Documents Required Provisions.** Every Consumer Financial Services Licensee must include the following disclosures or substantially similar disclosures in its consumer loan documents in order to comply with Section 7.2 of the Code. All disclosures shall be in bold or all caps and conspicuously placed.
- 1) **GOVERNING LAW AND FORUM SELECTION:** This agreement will be governed by the Laws of the Lac Vieux Desert Band of Lake Superior Chippewa Indians (“Tribal Law”), including but not limited to the Tribal Consumer Financial Services Regulatory Code as well as applicable federal law. All disputes shall be solely and exclusively resolved pursuant to the Tribal Dispute Resolution Procedures.
 - 2) **ALTERNATIVE FORMS OF CREDIT.** This loan has a high interest rate and is not intended to provide a solution for longer term credit or other financial needs. Alternative forms of credit may be less expensive and more suitable for your financial needs. Please consider your ability repay the loan and if you are having financial difficulties, you should seek the assistance of financial counselors. Please carefully read the terms of this agreement before executing.
 - 3) **SOVEREIGN IMMUNITY:** This agreement and all related documents are being submitted by you to [BUSINESS NAME] [BUSINESS ADDRESS]. [BUSINESS NAME] is an economic arm, instrumentality, and limited liability company, wholly owned and operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians. The Tribe is a federally-recognized Indian Tribe and enjoys governmental sovereign immunity. Because the Tribe and [BUSINESS NAME] are entitled to sovereign immunity, you will be limited in what claims, if any, you may be able to

assert against them. To encourage resolution of consumer complaints, and pursuant to Section 9 of the Tribal Consumer Financial Services Regulatory Code, all complaints lodged, filed, or otherwise submitted by you or on your behalf must follow the Tribal Dispute Resolution Procedure, as described herein.

- 4) **PRESERVATION OF SOVEREIGN IMMUNITY:** It is the express intention of the Tribe and [BUSINESS NAME], operating as an economic arm of the Tribe, to fully preserve, and not waive either in whole or in part, exclusive jurisdiction, sovereign governmental immunity, and any other rights, titles, privileges, and immunities, to which they are entitled. To protect and preserve the rights of the parties, no person may assume a waiver of immunity except by express written declaration of the Tribe's Tribal Council specifically authorizing a waiver of immunity for the matter in question.
- 5) **RIGHT TO RESCIND/CANCEL:** You may cancel this loan without finance charges or any costs no later than 5:00 P.M. Eastern on the second (2nd) banking day immediately following the Effective Date (Cancellation Deadline) by [FORM OF WRITING]. Upon cancellation the consumer shall repay the full amount of any loan proceeds credited to the consumer account.

**Lac Vieux Desert Band of Lake Superior Chippewa
Tribal Financial Services Regulatory Authority
Commission Regulations**

Regulation 1.4

Adopted by TFSRA Resolution 2014-02 on October 30, 2014

Approved by Tribal Council Resolution T2014-090 on October 31, 2014

Licensing

For Consumer Financial Services Regulatory Code Section 5 Licensing

A. Application Processing.

1. Issuing an Application.

- a. Applications are available from the TFSRA upon request.
 - i. Requests may be made to the TFSRA verbally or in writing.
 - ii. Applications may be printed or provided in electronic form to the Applicant.
- b. The TFSRA may choose to provide an electronic copy of the application on an LVD website.

2. Processing Application. Applicants must complete the application to the satisfaction of the TFSRA, provide all required documentation, obtain all approvals and remit all required fees to the TFSRA.

a. Incomplete applications will not be processed and may be returned with an explanation.

i. Applications will be considered incomplete if the applicant fails to provide the approval or other proof acceptable to the TFSRA that they are associated with a Financial Services Licensee.

ii. Within a reasonable amount of time established by the TFSRA, Applicants may provide any missing information, documentation, approvals or fees necessary to complete an application.

b. Completed applications will be processed pursuant to Section 5.2 of the Code.

c. Upon receipt of a completed application, the TFSRA may conduct criminal background, financial, licensure and any other investigations or checks it deems necessary to determine the eligibility of the Applicant pursuant to Section 5.4 of the Code.

3. Renewal Applications. Renewal Applicants will be treated in the same manner as new applicants.

- B. Licensing Fees.** The TFSRA may establish a fee schedule pursuant to Section 5.2(c). Fees will be published on the application
- C. Approving Applications and Renewals.** Applicants and renewal that meet all requirements under Section 5.3 of the Code will be issued a license by the TFSRA within a reasonable time.
- D. Denying Application and Renewals.** An application or a renewal may be denied for any reason listed in Section 5.4(a) of the Code.

**Lac Vieux Desert Band of Lake Superior Chippewa
Tribal Financial Services Regulatory Authority
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Regulation 1.3

Adopted by TFSRA Resolution 2014-01 on January 6, 2014

Amended by TFSRA Resolution 2014-02 on October 30, 2014

Approved by Tribal Council Resolution T2014-020 on March 4, 2014

Approved as amended by Tribal Council Resolution T2014-090 on October 31, 2014

Hearing Procedure

For Consumer Financial Services Regulatory Code Section 4.18 Hearings

PURPOSE: This regulation establishes the Tribal Consumer Financial Services Regulatory Authority (“TFSRA” or “Authority”)’s administrative procedures for hearings on contested matters before the Authority.

- A. **Definitions.** In this Regulation, except where otherwise specifically provided or unless the context otherwise requires, all terms and expressions contained in this Regulation shall have the same meaning as defined in The Lac Vieux Desert Band of Lake Superior Chippewa Indians Tribal Consumer Financial Services Regulatory Code (hereafter referred to as “the Code”).
- B. **General Provisions.** All hearings before the Authority, other than hearings on proposed regulations or administrative rules, shall be conducted in accordance with the Section 4.18 of the Code.
- 1) **Commencement of Action.** Contested matters are commenced by a Licensee upon the filing of any document by which through its filing, the Authority is required to hold a hearing or, by order of the Authority or Tribal Council, to set a hearing, other than an order for a hearing on a proposed regulation or administrative rule. Contested matters are commenced by the Authority pursuant to the Section 4.18 of the Code.
- C. **Prehearing Procedures.** At the request of any party, or on his/her own motion, the Examiner may order a prehearing conference for any of the following purposes; provided however, that no party shall be required to disclose the nature of its evidence, the names of its witnesses or its theory in the case at that conference:
- 1) To limit the issues in the case;
 - 2) To provide for the acceptance of, or the in-camera inspection of, any document requested by any party to be treated as confidential; or
 - 3) To determine any procedural aspect of the hearings.
 - 4) Subpoenas for personal appearance may be requested from the Authority in writing. Requests for subpoenas duces tecum shall be in writing and shall specify the person to be served and the documents to be provided.

- 5) In any contested matter, any party may take and use depositions in the manner as provided by the Authority.
- 6) Any prehearing motion seeking an order, other than the final order in the case, shall be designated by the relief sought. Rulings on prehearing motions, at the discretion of the Examiner, may be entered prior to or during the hearing or at the time of final order. A special hearing or briefs on the motion may be required by the Authority.

D. Hearing Procedures.

- 1) **Evidence.** Unless otherwise directed by the Authority, parties to the contested matter must be given the opportunity to present evidence, and may question any witnesses. Evidence that is reasonable related to the claim may be considered.
- 2) **Opening and Closing Arguments.** Parties may make opening and closing arguments, and the Examiner shall determine that time and provide each side notice of the time within the Notice of Hearing.
- 3) **Examination of Witnesses.** The party calling the witness shall have the first right of examination. Following examination of the witness, all adverse parties will have a right to cross examine that witness. After cross examination of a party's witness by all adverse parties, the Examiner may question the witness. Thereafter, the proponent party may examine his or her witness limited solely to the questions from the Examiner.

E. Procedures Following Hearing.

- 1) **Post-Hearing Motions.** Post-hearing motions shall be for the purpose of reopening the hearing and supported by evidence that a party first learned about only after the close of the hearing but prior to entry of a final order. Such motion shall state the nature of the evidence, shall identify when the proponent party learned of that evidence, and shall identify the specific issue to which the evidence is relevant.
- 2) **Decisions.** Decisions shall be entered pursuant to Section 4.18 (e) of the Code.

F. Administrative Appeal. Pursuant to Section 4.18 of the Code affected parties may appeal an Authority decision and order by filing a written petition for review with the Tribal Court within ninety (90) days after the Authority issued its decision and order.

- 1) A petition for review must include a statement describing the Licensee's complaint, the determination of the Authority and must include the type of relief the consumer is requesting and a copy of the Authority's decision and order.
- 2) The Licensee must mail a copy of the petition for review and all attachments to the Authority. The Authority may file a response within fifteen (15) days of receiving the petition for review. The Authority must forward the record of the proceedings to the Tribal Court within thirty (30) days of receiving the petition for review.
- 3) An administrative appeal under this Section is not a matter before the Tribal Court as contemplated by LVD Tribal Court Rule 1.006 or an action as contemplated by LVD Tribal Court Rule 2.201. As such, an administrative appeal is not a suit against the

Tribe, does not challenge the Tribe's sovereignty, and cannot be used as a means to circumvent the Tribe's sovereignty. By allowing an administrative appeal, the Tribe in no way waives its sovereign immunity because an administrative appeal is not a suit against the Tribe.

- 4) The Tribal Court will schedule oral argument within a reasonable time.
- 5) Appeal Standards.
 - (i) The Tribal Court shall limit its review to the record below.
 - (ii) The Tribal Court shall give deference to the Authority's reasonable interpretation and application of the Code.
 - (iii) If the Tribal Court concludes that the Authority's decision and order is arbitrary and capricious, or that it is not supported by the evidence, the Tribal Court may reverse and/or remand the Authority's decision and order. Mere disagreement with the Authority's factual findings is not a basis for reversal.
 - (iv) If the Tribal Court concludes that the Authority's conclusions of law conflict with Tribal law or the Tribal Constitution, the Tribal Court shall reverse and remand the Authority's decision.
- 6) Within a reasonable time after oral argument, the Tribal Court shall issue an opinion and order. The Tribal Court's opinion and order may not be appealed. Upon issuance of the Tribal Court's opinion and order, a consumer's administrative remedies are exhausted

**Lac Vieux Desert Band of Lake Superior Chippewa
Tribal Financial Services Regulatory Authority
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**Regulation 1.2
Adopted on August 8, 2013**

Short-Term, Small-Dollar Examination Procedures

These examination procedures apply to the Lac Vieux Desert Band of Lake Superior Chippewa Indians ("Tribe") short-term, small-dollar credit businesses. The procedures are comprised of components covering a short-term, small-dollar loan's lifecycle, and each component identifies relevant matters for review. Each examination will cover one or more of the following components of a tribal short-term lending company's business, depending on the scope of the examination as determined by the Authority and the examiners:

1. Marketing
2. Application and Origination
3. Payment Processing and Sustained Use
4. Collections, Accounts in Default, and Consumer Reporting
5. Third-Party Relationships

Examination Objectives

1. To assess the quality of the regulated entity's compliance risk management systems, including its internal controls and policies, for its short-term, small-dollar lending business.
2. To identify acts or practices that materially increase the risk of violations of federal consumer financial laws in connection with short-term, small-dollar lending.
3. To gather facts that help to determine whether a regulated entity engages in acts or practices that violate the requirements of federal consumer financial laws the entities have voluntarily agreed to abide by.
4. To determine if a violation of a federal consumer financial law has occurred and whether Regulatory Authority enforcement actions are appropriate.

Regardless of the channel used by lenders to conduct business – whether through a third-party lead generator, online, through a brick and mortar location, by mail, or by telephone – all LVD tribal short-term, small-dollar lending companies voluntarily agree to abide by the following federal consumer financial laws and regulations, though such tribal lending companies do not acknowledge or admit that the following laws and regulations apply to their tribal businesses:

- The Truth in Lending Act (TILA) and its implementing regulation, Regulation Z;
- The Electronic Fund Transfer Act (EFTA) and its implementing regulation, Regulation E;
- The Fair Debt Collection Practices Act (FDCPA);
- The Fair Credit Reporting Act (FCRA);
- The Gramm-Leach-Bliley Act (GLBA); and
- The Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B.

To carry out the examination objectives, examiners also should assess other consumer risks, including potentially unfair, deceptive, or abusive acts or practices (UDAAPs) with respect to lenders' interactions with consumers.

TFSRA Adopted August 8, 2013: _____

Other Risks to Consumers

1. Determine whether, in the application and origination process, the lender makes statements, representations, or claims, or provides information to consumers that may mislead the consumer regarding the cost, value, availability, cost savings, benefits, or terms of the product or service.
2. Determine whether the lender accurately and non-deceptively represents the amount of potential, approved, or useable credit that the consumer will receive.
3. Determine whether the lender clearly and prominently discloses its funds disbursement practices.
4. Determine whether the lender discloses its repayment and collection practices.
5. Determine whether the lender clearly and prominently discloses the consumer's rights regarding payment methods.

Component 1: Marketing

Advertising Requirements

Truth in Lending Act/Regulation Z

1. Determine whether the loans being offered are closed end or open end.
2. Determine whether the lender's advertisements are consistent with the requirements of Regulation Z, focusing carefully on whether advertisements contain triggering terms and include required statements, information, and disclosures.

Equal Credit Opportunity Act/Regulation B

1. Assess how the lender reaches its potential customers through its statements, advertising, or other marketing representations. Examiners should review:
 - a. Marketing and advertising materials, including signs or other displays and prescreened solicitations;
 - b. The criteria used to determine the potential recipients of the particular solicitation;
 - c. Any scripts and interview forms used for sales and taking applications; and
 - d. Product information used in discussing available types of credit with applicants.

Other Risks to Consumers

1. Assess whether the lender clearly and prominently discloses the material terms of the short-term, small-dollar loan.
2. Determine whether the promotional materials clearly and prominently disclose any material limitations, conditions, or restrictions on the offer.

Lead Generation

When examining lenders, examiners should:

1. Identify whether the lender is, or uses, a lead generator and, as applicable, review the relevant advertising materials.
2. Determine whether the statements and representations made by a company on another's behalf are accurate and non-deceptive.
3. Determine whether all fees for referred services are appropriately disclosed to consumers.

Component 2: Application and Origination

Equal Credit Opportunity Act/Regulation B

1. Assess whether the lender is offering credit in a non-discriminatory manner. Examiners should review:
 - a. Whether any aspect of the creditor's credit operation appears to vary by any of the prohibited bases?
 - b. Whether the creditor's underwriting or pricing guidelines contain any unusual criteria that could have a possibly negative disparate impact on a protected class?
 - c. Determine whether the lender's policies, procedures, or guidelines are vague or unduly subjective with respect to (i) underwriting; (ii) pricing; or (iii) classifying applicants as "prime" or "sub-prime" borrowers.

Fair Credit Reporting Act

1. Obtaining Consumer Reports
 - a. Determine whether the financial institution obtains consumer reports.
 - b. Ensure that the institution obtains consumer reports only for permissible purposes. Confirm that the institution certifies to the consumer reporting agency the purposes for which it will obtain reports. (The certification is usually contained in a financial institution's contract with the consumer reporting agency.)
2. Obtaining Information and Sharing Among Affiliates
 - a. Review the financial institution's policies, procedures, and practices concerning the sharing of consumer information with third parties, including both affiliated and nonaffiliated third parties. Determine the type of information shared and with whom the information is shared.
 - b. Determine whether the financial institution's information sharing practices fall within the exceptions to the definition of a consumer report. If they do not, the institution could be considered a consumer reporting agency and subject to the FCRA requirements for consumer reporting agencies.
 - c. If the financial institution shares information other than transaction and experience information with affiliates subject to opt-out provisions, determine whether the institution's GLBA privacy notice contains information regarding how to opt out.
3. Affiliate and Nonaffiliate Marketing Opt-Out
 - a. Evaluate the institution's policies, procedures, practices and internal controls to ensure that, where applicable, the consumer is provided with an appropriate notice, a reasonable opportunity, and a reasonable and simple method to opt out of the institution's using eligibility information to make solicitations for marketing purposes to the consumer, and that the institution is honoring the consumer's opt-outs.

Component 3: Payment Processing and Sustained Use

Truth In Lending Act/Regulation Z

1. Determine whether the loans being offered are closed-end or open-end.
2. Assess compliance, as applicable, with the open- or closed-end TILA requirements for payment processing, billing errors and inquiries, credit balances larger than \$1, and periodic statements.

Electronic Fund Transfer Act/Regulation E

1. Determine whether the lender is complying with the appropriate disclosure requirements if the lender is converting check payments from borrowers to electronic fund transfers.
2. Determine whether the lender is complying with the appropriate disclosure requirements if the lender is collecting returned item fees by electronic fund transfer.

Sustained Use

When a borrower cannot repay a loan by its due date, lenders may allow the borrower to modify or “roll over” the loan by paying an additional fee to extend the loan term. A lender may also engage in a transaction in which a borrower uses the proceeds from a new loan to satisfy and pay off an older loan. And in some instances, lenders may allow borrowers to convert a balloon payment into an installment plan. All of these borrowing patterns may constitute sustained use.

Examiners first should determine whether the lender offers any of the above options. If yes, then:

1. Determine whether the lender represents accurately and non-deceptively the payment options that will be available to borrowers.
2. Determine whether the lender provides borrowers with all available repayment options offered by the lender.
3. Determine whether the lender discloses clearly and prominently all fees and material terms associated with the sustained use transactions.
4. Determine whether the lender has policies and procedures related to sustained use of the loan product and whether the lender is adhering to its policies.

Other Risks to Consumers

1. Determine whether payments are applied properly.
2. Determine whether the lender informs consumers in a clear and timely manner about fees, penalties, or other charges that have been imposed and the reasons for their imposition.

Component 4: Collections, Accounts in Default, and Consumer Reporting

A lender may collect a short-term, small-dollar loan in default by directly engaging in collection activities on its own behalf; by assigning collection activity to third parties for a fee; or, by selling defaulted debts to a third party. The FDCPA does not apply to a lender collecting debts on its own behalf and under its own name. Practices that would otherwise violate the FDCPA, however, may be unfair, deceptive, or abusive.

Fair Debt Collection Practices Act

1. Determine if the institution is a debt collector under FDCPA.
2. Determine if the institution has established internal procedures and controls to ensure compliance with the FDCPA.
3. If the institution has acted or is acting as a debt collector under the FDCPA, determine if the institution has:
 - a. Communicated with the consumer or third parties in any prohibited manner;
 - b. Furnished the written validation notice within the required time period and otherwise complied with applicable validation requirements;
 - c. Used any harassing, abusive, unfair, or deceptive collection practice prohibited by FDCPA;
 - d. Collected any amount not expressly authorized by the debt instrument creating the debt or by state law;
 - e. Applied all payments received as instructed and, where no instruction was given, applied payments only to undisputed debts; or
 - f. Filed suit in an authorized forum if the institution sued to collect the debt.

Fair Credit Reporting Act

1. Note that, although lenders typically do not obtain a consumer report at the application stage, they may obtain a report for collection purposes. If a lender obtains a consumer report in the collection process, assess the lender's compliance with the FCRA. Refer to the above FCRA examination procedures for additional information.
2. Lenders may choose to report information about a borrower to a consumer reporting agency. This may include providing information to a traditional credit bureau, but may also include providing information to another type of consumer reporting company (e.g., check verification firms). Reported information may include the number of outstanding loans, loan balances, and defaulted loan balances. Assess whether lenders maintain written policies and procedures regarding data accuracy, report information accurately, and have procedures in place to ensure that inquiries and complaints concerning reported data are appropriately resolved in accordance with FCRA requirements.

Other Risks to Consumers

1. Determine whether the lender contacts borrowers in an appropriate manner by assessing whether:
 - a. Employees and third-party contractors clearly disclose to consumers that they are contacting the consumer about the collection of a debt;
 - b. Employees and third-party contractors do not disclose the existence of a consumer's debt to members of the public without the consent of the consumer, except as permitted by law; and
 - c. The lender has policies on avoiding repeated telephone calls that abuse or harass any person at the number called.
2. Determine whether the lender makes misrepresentations or uses other deceptive means to collect debts.
3. Determine whether the lender has appropriate controls in place to prevent such practices.

Component 5: Third-Party Relationships

Gramm-Leach-Bliley Act and Fair Credit Reporting Act Requirements

1. Examiners should assess a lender's compliance with the GLBA.
 - a. Determine whether the lender's information-sharing practices are consistent with the requirements of the GLBA and are properly disclosed in lender's privacy policy.
 - b. Determine whether the lender accurately and timely discloses its sharing practices to consumers and customers. (For example, a person who applies for a short-term, small-dollar loan is a consumer. A person who obtains a short-term, small-dollar loan is a customer.)
 - c. Determine whether the lender properly manages opt-out requests.
2. Assess compliance with the FCRA's affiliate marketing rule. Refer to the FCRA examination procedures above for more information.

Vendor Management

Examiners should evaluate copies of any agreements between lenders and third parties acting on behalf of the lender for purposes of assessing risks to consumers.

1. Evaluate whether the lender has compliance management controls for selecting and monitoring affiliates and/or third parties.
2. Evaluate whether the lender takes steps to ensure that the third parties it uses are licensed or registered to the extent required.
3. Evaluate whether the lender performs initial due diligence concerning the third party's prior regulatory compliance history before entering into an agreement (i.e., determining the existence and extent of any prior enforcement actions against the third party).
4. Evaluate whether the lender monitors the screening, hiring, and training practices of third-party employees who perform services on the lender's behalf.
5. Evaluate whether the lender takes steps to ensure third-party compliance with the lender's privacy policy with respect to data that the third party receives from or on behalf of the lender.
6. Evaluate whether the lender reviews the internal or external audit reports covering the third parties' activities and whether the lender responds appropriately to identified concerns.

Truth In Lending Act/Regulation Z

1. Determine whether the loans being offered are closed-end or open-end.
2. Determine whether the appropriate disclosures required for the loan type (i.e., disclosures for closed-end credit vs. open-end credit) are being provided by the lender.
3. Examine the loan product to verify that the product being offered conforms to the lender's representations or to determine if the lender has mischaracterized or misclassified its product and therefore is not complying with the proper set of requirements (e.g., the lender characterizes its loan product as closed-end where the product in fact is open-end, and the lender should be complying with TILA/Regulation Z's requirements for open-end credit).

Electronic Fund Transfer Act/Regulation E

Depending on how the lender transfers funds to and from consumers, the lender may be required to comply with the requirements of the EFTA.

1. Determine if the agreement contemplates or involves initiating an electronic fund transfer subject to EFTA/Regulation E ("EFT"). Consider if the lender is using methods subject to EFTA or using remotely-created checks or other non-EFT methods, which are not subject to EFTA.
2. Determine whether the EFT is a single or a recurring EFT that is a preauthorized electronic transfer. To qualify as a preauthorized electronic fund transfer, the transfer is one that is authorized in advance to recur at substantially regular intervals.
3. If the lender initiates preauthorized EFTs, assess the lender's or financial institution's compliance with the applicable advance authorization, disclosures, and other requirements relating to preauthorized electronic fund transfers under the EFTA and Regulation E.
 - a. Does the lender obtain proper written authorization for preauthorized electronic fund transfers from a consumer's account and provide a copy of the authorization to the consumer?
 - b. Does the lender require compulsory use of EFTs and condition the extension of credit to consumers on the repayment of loans by preauthorized electronic debits?
 - i. Examine the agreement for terms requiring that the borrower agree to electronic payment. Such terms may violate the EFTA's prohibition on requiring repayment by means of preauthorized electronic fund transfers as a condition of the extension of credit, except as authorized.
 - ii. Determine if the lender offers the borrower an option to pay using a non-EFT method of payment.
 - c. Will the preauthorized transfers vary in amount? If so, does the payee or financial institution, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with applicable regulations, of the amount to be transferred and the scheduled date of transfer?
4. If the loan agreement provides for a single or one-time EFT, assess whether the lender obtained authorization from the consumer to initiate an EFT.

General Considerations

Completing the following examination components will allow examiners to develop a thorough understanding of lenders' practices and operations. To complete the components, examiners should obtain and review the following as applicable: relevant management reporting, including aggregate loan data to the extent available; policies and procedures; loan applications, loan account documentation and disclosures; audit and compliance reports; training programs and materials; third-party contracts; advertisements, marketing research, and website information; and complaints.

Depending on the scope of the examination, examiners should also conduct interviews with management and staff to determine whether they understand and consistently follow the policies, procedures, and regulatory requirements applicable to short-term, small-dollar lending; manage change appropriately; and implement effective controls.